

**IN THE HIGH COURT OF ZAMBIA  
AT THE PRINCIPAL REGISTRY  
HOLDEN AT LUSAKA**  
(Civil Jurisdiction)



2025/HP/0997

BETWEEN:

**WILLIAM FRANKLIN**

(suing on his own behalf and on behalf of  
7 other former Board Members of the  
Livestock Services Co-operative Society)

**PLAINTIFF**

AND

**LIVESTOCK SERVICES CO-OPERATIVE SOCIETY**

**DEFENDANT**

**BEFORE HON MRS JUSTICE S. KAUNDA NEWA IN CHAMBERS THIS 29<sup>th</sup>  
DAY OF AUGUST, 2025**

*For the Plaintiff* : Mr M. Malambo, Mr Mabenga and Ms S. Kunda, Messrs  
Howard Marietta and Peterson

*For the Defendant* : Mr N. Nchito SC and Mr C. Hamwela, Messrs Nchito and  
Nchito Advocates

---

**R U L I N G**

---

CASES REFERRED TO:

1. *Hadkinson v Hadkinson* 1952 2 ALL ER 567
2. *Thynne v Thynne* 1955 3 ALL ER 129
3. *American Cynamid Company Limited v Ethicon Limited* 1975 AC 396
4. *Re Mwaiseni Properties Limited* HP 532 of 1983
5. *Brinks Mat Ltd v Elcombe* 1988 1 WLR 1350
6. *Finsbury v Ventriglia* Appeal No 11 of 2009 [2013] ZMSC 17
7. *Times Newspapers Zambia Limited & another v Koukoudis & another* Appeal No 66 of 2010
8. *Attorney General and others v Ambex Clothing Manufacture Ltd* Appeal No 174 of 2008 [2018] ZMSC 607 (7 May, 2018)
9. *Basf South Africa (Proprietary) Ltd v Agrifocus Limited* 2018/HPC/0419

LEGISLATION REFERRED TO:

- 1. The High Court Rules Chapter 27 of the Laws of Zambia**
- 2. The Cooperative Societies Act No 20 of 1998**

OTHER WORKS REFERRED TO:

- 1. Snell's Principles of Equity (1954) 24<sup>th</sup> Edition**

**1. INTRODUCTION**

1.1 William Franklin suing on his behalf, and behalf of seven (7) other former Board members of the Livestock Services Co-operative Society commenced this matter by Writ of Summons on 16<sup>th</sup> July, 2025, which is accompanied by a statement of claim and the other requisite documents seeking:

- i. An injunctive Order mandating that William Franklin and seven other former Board members of the Livestock Services Cooperative Society and their Counsel be given full access to inspect all the documents for the Livestock Services Cooperative Society which had been requested;*
- ii. A declaratory Judgment that will Order that the 32<sup>nd</sup> AGM, its' agenda and all resolutions and conclusions emanating therefrom are null and void and are illegal;*
- iii. An Order that new by-laws and all amendments from the old by-laws are declared null and void and are against the rules and procedures laid down in the Co-operative Societies Act No 20 of 1998;*
- iv. An Order that the Livestock Services Co-operative Society has breached its' statutory duty to maintain an active register of members, and thus, a further*

*mandatory order for the Livestock Services Cooperative Society to provide a verifiable and updated members' register to William Franklin and the other Plaintiffs.*

- v. An Order that the appointment of the 'non-voting directors' by the Board of the Livestock Services Cooperative Society is illegal and contravenes statute, and that their appointments are revoked with immediate effect;*
- vi. An Order that the appointment of Mr Andre Stucki to the Board of the Livestock Services Cooperative Society is illegal and contravenes statute;*
- vii. An interim injunctive order that will mandate the Chairperson of the Board to rescind the Notice of the 33<sup>rd</sup> AGM that is scheduled to be held on 17<sup>th</sup> July, 2025 at Taj Pamodzi Hotel in Lusaka until the final determination of the matter.*
- viii. Costs;*
- ix. Any other relief that this Honourable Court shall deem fit.*

1.2 An ex-parte Order of injunction was granted on 16<sup>th</sup> July, 2025, which was returnable on 21<sup>st</sup> August, 2025. The Order of injunction restrained the Livestock Services Cooperative Society whether by itself, or by any of its' employees, members, servants, agents howsoever, otherwise from proceeding to hold the 33<sup>rd</sup> Annual General Meeting (AGM) which was scheduled to be held on 17<sup>th</sup> July, 2025, at the

Taj Pamodzi Hotel in Lusaka, or on any day whatsoever, until full and final determination of the matter.

- 1.3 The Order of injunction further directed the Livestock Services Cooperative Society to allow William Franklin and his Counsel to inspect its' records within three (3) days from the date of the order.
- 1.4 On 18<sup>th</sup> July, 2025, the Livestock Services Cooperative Society applied to discharge the Order of injunction ex-parte. I directed that the said application be heard inter-partes on 21<sup>st</sup> August, 2025.
- 1.5 Then thereafter, on 23<sup>rd</sup> July, 2025, the Livestock Services Cooperative Society filed an ex-parte application, to clarify the order of injunction pursuant to ***Order 3 Rule 2 of the High Court Rules Chapter 27 of the Laws of Zambia*** and the inherent jurisdiction of the Court.
- 1.6 I directed that the said application be heard interpartes on 28<sup>th</sup> July, 2025.

## **2. SUBMISSIONS ON THE APPLICATION TO DISCHARGE THE ORDER INJUNCTION AND TO CLARIFY THE ORDER OF INJUNCTION**

### **SUBMISSIONS BY COUNSEL FOR THE LIVESTOCK SERVICES COOPERATIVE SOCIETY**

- 2.1 In submitting, State Counsel Nchito, stated that they relied on the affidavit and the List of Authorities and Skeleton Arguments which were filed in support of the application. He submitting in augmenting, that the application for the Order

of injunction was made pursuant to **Order 27 Rule 4 of the High Court Rules**.

- 2.2 However, State Counsel took the view, that a review of that provision, disclosed that it relates to restraining a party from acting in breach of contract or causing other injury, so recourse should have been had to the **Rules of the Supreme Court of England, 1999 Edition**.
- 2.3 In that respect, State Counsel submitted that **Order 29 of the Rules of the Supreme Court of England**, deals with interlocutory injunctions, and that in particular, **Order 29 Rule 8A/10** deals with inspection.
- 2.4 Further submission was made, that the limb of the injunction dealing with inspection ought not to have been granted. State Counsel also submitted in the alternative, stating that if the Court was inclined to grant the same, then it should be clarified.
- 2.5 Mr Hamwela added that the provisions of the **Cooperative Society Act No 20 of 1998** are clear in terms of what documents could be accessed under **Section 21**. His submission was that William Franklin had not pointed the Court any other law that would expand the scope of the Section.
- 2.6 In still submitting, Mr Hamwela stated that the Livestock Services Cooperative Society had produced the **Section 21** documents which had been served on William Franklin. Thus, the application had been made to save judicial time, which was precious.

**RESPONSE BY COUNSEL FOR WILLIAM FRANKLIN**

- 2.7 It was Counsel's submission that they had filed an affidavit and a List of Authorities and Skeleton Arguments in opposition. Counsel stated that they relied on the said documents.
- 2.8 It was also his submission in augmentation, that the Livestock Services Cooperative Society had not entered appearance and filed its' defence, but had filed two applications on the injunction application. He took the view that the submissions as made by State Counsel were a preserve of an opposition to the application for an Order of injunction.
- 2.9 In response to the submission by State Counsel, regarding the Order that had been relied upon in making the application, Counsel stated that issue was in fact an opposition to the application.
- 2.10 With respect to **Section 21 of the Cooperatives Societies Act**, Counsel stated that it did not impose a ceiling on the particular documents that could be inspected. His view was that **Section 21** established a flaw, but that the Order of the Court was within the fours for William Franklin to inspect documents, other than those which are stipulated in **Section 21 of the Cooperative Societies Act**.
- 2.11 Reliance was placed on the case of **Thynne v Thynne 1955 3 ALL ER 129**, with Counsel submitting that in that matter, a staged approach was considered when varying an Order.

- 2.12 He stated that the Order that was sought to be clarified should have had a meaning that was not clear, or because the Court had made an erroneous decision. Counsel stated that neither of those instances were applicable in this case.
- 2.13 In that regard, Counsel stated that the term 'Society's records' was very clear, not only as exhibited to the affidavit in opposition, but more importantly, in the affidavit in support.
- 2.14 Therefore, Counsel's submission was that the application to clarify was not only flimsy, but was aimed at derailing the speedy resolution of the matter, and skewing the Order before the interpartes hearing.
- 2.15 On that basis, the prayer was that the application be dismissed with costs.

**REPLY BY COUNSEL FOR THE LIVESTOCK SERVICES  
COOPERATIVE SOCIETY**

- 2.16 State Counsel in reply, with regard to the failure to enter appearance and file the defence, submitted that the return date for the application for the injunction application was 21<sup>st</sup> August, 2021. Therefore, they were still within time.
- 2.17 On the possible jurisdictional question which may have arisen out of the application, State Counsel stated that jurisdiction is everything. He stated that they had not attempted to guide the Court, but as officers of the Court, they had drawn the Court's attention to the provisions of the law.

- 2.18 He went on to state that **Section 21 of the Cooperatives Societies Act** is worded in mandatory terms, as it uses the word shall. It was stated that there is nothing in the Section that leaves room or mentions other records.
- 2.19 The further submission in reply, was that injunctions with a penal notice should generally be obeyed. It was noted that the Order spoke about the Societies records.
- 2.20 Reference was made to a decision by *Bweupe J* on a detention order under the Preservation of Security Regulations, which provided that the grounds for detention had to be given. It was submitted that in that matter, the detainee was detained on grounds that he had committed an offence. However, *Bweupe J* stated that the Penal Code specified crimes.
- 2.21 Applying that rationale to this case, State Counsel submitted that the Livestock Services Cooperative Society had various records for different things. Thus, the records to be inspected had to be specified. Accordingly, the Order lacked clarity.
- 2.22 It was further his submission, that as if that was not enough, William Franklin had argued that the records that they sought were clear. The submission was that in paragraph 3.8 of the arguments, it had ben stated that in the first sentence, that the intent was clear as per the correspondence before the order of injunction was applied for.
- 2.23 Going by that, State Counsel submitted that William Franklin wanted the Livestock Services Cooperative Society

to interpret the Order. Therefore, the Order was not clear on the face of it. State Counsel added that William Franklin had referred to correspondence in April, but the Livestock Services Cooperative Society in its' affidavit had referred to later correspondence between the parties in July, which talked about documents which are provided for in **Section 21**.

- 2.24 It was stated that exhibit 'RL5' to the affidavit seeking clarity was dated 21<sup>st</sup> July, 2025, which was a response to a letter dated 3<sup>rd</sup> July 2025, and which letter in turn was a response to a letter dated 3<sup>rd</sup> June, 2025. Therefore, based on that, and Order that just stated records needed to be clarified, assuming it could be sustained. Otherwise, it was incapable of being obeyed.
- 2.25 State Counsel stated that should the Order be sustained, it should be clarified, and in light of the limb on inspection in the **Rules of the Supreme Court of England**, it should be cut off.

### **3. DECISION OF THIS COURT**

- 3.1 I have considered the application. It was made pursuant to **Order 2 Rule 2 of the High Court Rules** and the inherent jurisdiction of the Court.
- 3.2 **Order 3 Rule 2 of the High Court Rules, states that:**
- “2. Subject to any particular rules, the Court or a Judge may, in all causes and matters, make any interlocutory order which it or he considers necessary for doing justice, whether such order***

***has been expressly asked by the person entitled to the benefit of the order or not.”***

- 3.3 As regards the inherent jurisdiction of the Court, ***Halsbury’s Laws of England, 4<sup>th</sup> Edition Re-Issue, Volume 37*** in paragraph 14 states as follows:

Unlike all other branches of the law, except perhaps criminal law, there is a source of law which is peculiar and special to civil procedural law and is commonly called the inherent jurisdiction of the Court....

***“The term inherent jurisdiction is not used in contradistinction to the jurisdiction of the Court exercisable at common law or conferred on it by statute or rules of court, for the Court may exercise its’ inherent jurisdiction even in respect of matters, which are regulated by statute of rules of Court. The jurisdiction of the Court which is comprised within the term ‘inherent’ is that which enables it to fulfil itself properly and efficiently as a Court of law. The overriding feature of the inherent jurisdiction of the Court is that it is part of the procedural law, both civil and criminal and not part of the substantive law.***

***The inherent jurisdiction of the Court enables it to exercise (1) control over process by regulating its’ proceedings, by preventing abuse of Court process and by compelling the observance of process (2) control over persons as for example over minors***

***and mental patients, and officers of the Court and  
(3) control over the powers of inferior Courts.”***

3.4 Rene Lourens, the General Manager of the Livestock Services Cooperative Society in deposing to the affidavit which was filed in support of the application, stated that the Order of injunction, which was exhibited as ‘RL1’, which was obtained on 16<sup>th</sup> July, 2025 read as follows:

***“The Defendant be and is hereby mandated to allow the Plaintiff and his Counsel to inspect the Society’s records within three (3) days of the date of the order.”***

3.5 He stated that prior to that on 30<sup>th</sup> June, 2025, William Franklin through his lawyers, made a request to inspect the records for the Livestock Services Cooperative Society, which letter was exhibited as ‘RL2’. It was also his averment, that upon receipt of the letter on 1<sup>st</sup> July, 2025, the Livestock Services Cooperative Society responded through the letter which was exhibited as ‘RL3’ that its’ lawyers would revert upon receiving instructions.

3.6 Then by the letter dated 3<sup>rd</sup> July, 2025, which was exhibited as ‘RL4’, the lawyers for the Livestock Services Cooperative Limited, wrote back to William Franklin, indicating its’ resolve to comply with the law and avail its’ records to William Franklin.

3.7 It was also deposed that by letter which was exhibited as ‘RL5’, the parties agreed that inspection would be conducted on Thursday, 10<sup>th</sup> July, 2025 at 14:00 hours. However, on

the said date, William Franklin had insisted that his lawyers, who are members of the public should also conduct the inspection jointly, without paying the prescribed fees, which insistence, the Livestock Services Cooperative Society took exception to.

- 3.8 Rene Lourens averred that he had been advised by lawyers, which advise he verily believed to be true, that inspection of all records for cooperative societies must be conducted in accordance with the law. Thus, the said position was communicated to William Franklin in the letter, which was exhibited as 'RL6'.
- 3.9 He stated that William Franklin refused to comply with the legal requirements that govern such inspection, and he unilaterally withdrew from the inspection. Exhibited as 'RL7', was a copy of the correspondence.
- 3.10 Rene Lourens deposed that he had been advised by his advocates, which advise he verily believed to be true, that an injunction is an equitable remedy, and that a party seeking such relief must make full and frank disclosure and had to come to equity with clean hands.
- 3.11 It was stated that William Franklin did not disclose that the Livestock Services Cooperative Society had at all material times been willing to grant access to its' records, and that it was in fact William Franklin who refused to comply with the legal requirements governing the inspection.

- 3.12 In further averring, Rene Lourens stated that the documents that William Franklin sought to inspect, are registered with the Registrar of Societies as shown on exhibit 'RL3'.
- 3.13 He stated that he had been advised by his lawyers and he verily believed that the Order granting William Franklin access to the records for the Livestock Services Cooperative Society was couched in vague terms, and was contrary to the applicable law, and through the Order of injunction, William Franklin had obtained the reliefs that he seeks in the main action.
- 3.14 In still deposing, Rene Lourens stated that William Franklin in making the application, did not disclose that the complaints that were being raised now, were investigated by the Registrar of Cooperative Societies, who also superintended over the 32<sup>nd</sup> AGM, which William Franklin attended.
- 3.15 His averment was the following persons who had been listed as persons on whose behalf, William Franklin had sued, had never been members of the Livestock Services Cooperative Society:
- i. Chris Clubb (who had written to the Board several times asking for membership, but had not filled in or submitted the membership application form);
  - ii. Blair Mcleod (applied a few months earlier but had not been granted membership);
  - iii. Neville Pinkey (had not applied for membership); and

- iv. Donald Burton (had applied for membership a few months earlier but membership was not granted.
- 3.16 It was his averment, that before the current regime, the non-members who had been named above, and those who were connected with William Franklin, had a closed loop system where they did not inform anyone of their purported membership. Therefore, they would go into the Board by electing amongst themselves.
- 3.17 Rene Lourens deposed that, that was how William Franklin became Chairman of the Board, without being elected by members of the Cooperative during his tenure, adding that William Franklin assumed office as a result of the elections within his circle.
- 3.18 He went on to state that the Membership register which was used to determine admission at the 32<sup>nd</sup> AGM had been intact since 2012, and that it was the same register that prevailed during the tenure of William Franklin and the person on whose behalf he had sued and had acted, as directors of the Livestock Services Cooperative Society.
- 3.19 Additional averment was made, that it was the same Members List that was used by William Franklin for the AGM for the Livestock Services Cooperative Society that William Franklin and those on whose behalf he had sued who had convened as directors.
- 3.20 Rene Lourens stated that the non-membership status of the persons that he had pointed out applied to the entire period

that William Franklin and all the persons on whose behalf he had sued, as directors.

- 3.21 Also averred, was that no election had been held by the members for William Franklin to act as Chairman of the Board. It was stated that when this was discovered as part of the Registrar's investigations, the membership Secretary for the Cooperative, May and Co, wrote to William Franklin and the others advising them that they were not members and requesting them to apply for membership.
- 3.22 He added that in any case, the rights of members accrued to members and not former Board members, however, they were elected.
- 3.23 In still deposing, Rene Lourens stated that the Cooperative received a serious letter from the Registrar of Cooperatives in February, 2024, launching an investigation into the 32<sup>nd</sup> AGM which was titled 'Investigations into the Irregularities at the 32<sup>nd</sup> Livestock Services Cooperative Society Annual General Meeting', which was exhibited as 'RL9'.
- 3.24 He deposed that the investigation by the Registrar was extensive with officers from both the Ministry of Small and Medium Enterprise and the Ministry of Fisheries and Livestock, with the Permanent Secretary of the Ministry of Home Affairs and other Permanent Secretaries being copied in.
- 3.25 Other averments that were made, were that in subsequent letters, the Registrar had advised that the investigations

arose from a written complaint from members, and the membership files were seized for investigation.

- 3.26 Then as evidenced by the letter which was exhibited as 'LR10' from the Registrar, the directive was that the Livestock Services Cooperative Society should conduct the 33<sup>rd</sup> AGM after the directives were complied with. It was added that this came about based on the inter-ministerial investigation and several other meetings with the directors of the Livestock Services Cooperative Society.
- 3.27 Rene Lourens stated that on complying with the directives as issued by the Registrar, the Livestock Services Cooperative Society issued a notice for the 33<sup>rd</sup> AGM which was set for 26<sup>th</sup> November, 2024. However, William Franklin and his associated persons complained to the Registrar, who asked the Livestock Services Cooperative Society to withdraw the notice, until the Registrar met with the office bearers of the Livestock Services Cooperative Society, which letter was exhibited as 'RL11'.
- 3.28 Then on the meeting being held, and the Registrar was satisfied that all was in order, he gave express authority for the Livestock Services Cooperative Society to proceed with the 33<sup>rd</sup> AGM.
- 3.29 As to the disputed By-laws, Rene Lourens deposed that a copy of the vote on the By-laws which was signed by the officer of the Registrar of Cooperative Societies was exhibited as 'RL12', Kennedy Mbuji, who was present during the 32<sup>nd</sup> AGM.

- 3.30 He further averred that the Internal Auditor, Compliance Manager, External and Internal Auditors of the Livestock Services Cooperative Society jointly tallied and checked on the vote on the By Laws, which was certified and signed off by the representative of the Registrar of Cooperative Societies, as well as the external auditor.
- 3.31 Rene Lourens stated that Don Burton and Blair Mcleod who are being represented by William Franklin, were directors as at the 32<sup>nd</sup> AGM, which they now sought to impugn.
- 3.32 It was also stated that no non-voting directors were elected at the 32<sup>nd</sup> AGM, and Mrs Mwinga and Mr Stucki were both elected as directors, who are full voting directors.
- 3.33 In still averring, Rene Lourens stated that the Livestock Services Cooperative Society does not pay dividends or patronage bonuses, and its' Board is not remunerated, but rather, is volunteer based.
- 3.34 He also deposed that due to the delay in convening the 33<sup>rd</sup> AGM, whose proceeding AGM meeting, the Livestock Services Cooperative Society had been unable to have its 31<sup>st</sup> December, 2023 accounts approved and signed off by the members.
- 3.35 It was stated that the meeting for accounts for the year ended 31<sup>st</sup> December, 2023, were set for approval at the injuncted AGM that was scheduled to be held on 26<sup>th</sup> November, 2024, and had now been stopped by the injunctive order of the Court.

- 3.36 Rene Lourens stated that the Zambia Revenue Authority (ZRA) had informed the Livestock Services Cooperative Society that failure to submit the audited and signed accounts would result in blocking of its' tax payer identification number 'TPIN' and a presumptive tax would be levied on all the inputs that it would make.
- 3.37 The averment was that the Livestock Services Cooperative Society is the largest agricultural cooperative in the country, which services 200, 000 customers annually, with an annual turn over in excess of ZMW800 Million.
- 3.38 Rene Lourens stated that it is key to agricultural sector and failure to hold the hold the AGM and approve the Annual Financial Statements would jeopardise the cost and availability of framing.
- 3.39 He further deposed that only members in the AGM could appoint auditors for the 2024 accounts, which were due for submission in June 2025, making the 33<sup>rd</sup> AGM critical.
- 3.40 It was also stated that William Franklin, as a member, could air his grievance at the 33<sup>rd</sup> AGM, without having to halt the meeting, which was intended to deal with matters that bordered on governance and statutory compliance.
- 3.41 Rene Lourens stated that William Franklin had been invited to summon a special meeting in terms of the By-Laws with the requisite forum for him to ventilate his grievances to the other members of the Livestock Services Cooperative Society in accordance with the By-laws.

- 3.42 William Franklin's averment that the Board had refused to convene a Special General Meeting (SGM) was denied, with it being deposed that William Franklin failed to meet the requirements for requisitioning the meeting.
- 3.43 In that regard, Rene Lourens stated that a SGM could only be convened on request by a member by a petition which was signed by at least a tenth of the members under the old By-Laws and 15 members under the new By-Laws.
- 3.44 The averment was that William Franklin had been told to comply with the said By-Law, but he had refused or neglected to do so.
- 3.45 It was stated that as advised by the advocates, William Franklin was not entitled to the equitable relief that he sought, as he had not approached the Court with clean hands.
- 3.46 In the List of Authorities and Skeleton Arguments in support, paragraph 3 of the injunction Order was stated, and it was argued that the said Order directed not only William Franklin, but also his Counsel to inspect the records which was contrary to **Section 21 of the Cooperatives Societies Act No 20 of 1998**.
- 3.47 It was argued that going by that provision, only a member was allowed to view specific records at no cost, and not their proxy or third parties. The additional argument was that third parties were required to pay a fee to have access to specific records.

- 3.48 The other limb of argument was that the injunction gave wide and unfettered discretion to inspect the Society's records, which was contrary to **Section 21 of the Cooperatives Societies Act No 20 of 1998**, and the records sought to be inspected had not been specified, and for what period.
- 3.49 It was also argued that only regulations, by laws and the list of members were the specific records of the Society that could be inspected.
- 3.50 The contention was that the Order of injunction could not permit actions which were contrary to the law. On that basis the prayer was that the Order of injunction be discharged.
- 3.51 The other face of the application, was that injunctions are equitable relief which are granted in the Court's discretion. Therefore, a party seeking equitable relief must come to Court with clean hands.
- 3.52 Relied on as authority was in **Re Mwaiseni Properties Limited** <sup>(4)</sup> and **Snell's Principles of Equity (1954) 24<sup>th</sup> Edition at page 25**.
- 3.53 It was contended that William Frankin had abrogated the principles that govern the granting of equitable relief by refusing to comply with the lawful requirement for inspection, and he had concealed this from the Court. Thus, his conduct was inconsistent with the requirement to give full disclosure, which underpinned the granting of equitable relief.

- 3.54 It was added that William Franklin had not come to Court with clean hands and he had failed to make full and frank disclosure. The case of ***Brinks Mat Ltd v Elcombe*** <sup>(5)</sup> was cited as authority in that regard.
- 3.55 Relying on the case of ***Finsbury v Ventriglia*** <sup>(6)</sup>, the argument was also that the Court has power to discharge an order of injunction, where there is fresh evidence that permits the discharge.
- 3.56 The failure by William Franklin to disclose all the material and salient facts, being that he was allowed to inspect the records in line with the law, was argued as being such fresh evidence. It was stated that the failure to disclose went directly to the propriety of the injunction that was granted.
- 3.57 The affidavit which was filed on 23<sup>rd</sup> July, 2025 by Rene Lourens in support of the application to clarify the terms of the Order of the Ex-parte injunction, referred to the Order on injunction, as given, with the averments that were made in the affidavit which was filed in support of the application to discharge the Order of injunction.
- 3.58 The basis was the failure by William Franklin to disclose that he was allowed to inspect the Society's records within the law and the scope of the Order for inspection, and what records could be inspected.
- 3.59 In the List of Authorities and Skeleton Arguments in support, the arguments as given were repeated, and the case of ***American Cynamid Company Limited v Ethicon Limited*** <sup>(3)</sup> was stated as having defined an injunction as an

Order of the Court directing a party to the proceedings to do or refrain from doing a specified act.

- 3.60 The case of ***Hadkinson v Hadkinson*** <sup>(1)</sup> was also relied on, as having held that the consequences of disobeying a Court Order are so grave, that a party can be held to be in contempt of Court, which is punishable by committal or attachment.
- 3.61 It was however argued, that where an order is vague or unclear, its' enforcement is uncertain, and may expose the party that is given the mandate to comply to inadvertently disobey it.
- 3.62 The affidavit in opposition, which was deposed to by William John Franklin in responding to the affidavit which was filed in support of the summons to clarify the order of injunction, stated that exhibit 'RL2' to the affidavit which was filed in support of the application, was the letter that his advocates wrote to the Livestock Services Cooperative Society which showed that his request extended beyond the documents which are specified in ***Section 21 of the Cooperative Societies Act***.
- 3.63 He stated that in the letter, he requested to see copies of all notices that convened the 32<sup>nd</sup> AGM including the accompanying correspondence with clear dates, the attendance register, recording of all members (including the dates on which on the notices were dispatched to the members), the attendance register recording the names of all the proxies and delegates (if permitted) who attended the AGM and the official minutes of the AGM, specifically

recording discussions, the presentation of the resolution to amend the By-laws, and detailing the precise voting results, including the number of votes that were cast for and against, as well those who were absent.

- 3.64 William John Franklin further deposed that by the letter which was exhibited as 'WJF1', which was dated 24<sup>th</sup> April, 2025, he had requested the exact documents as he did in June 2025.
- 3.65 He stated that on receiving the approval to inspect the documents, he went to the Livestock Services Cooperative Society's offices with his lawyers, and some former board members on 10<sup>th</sup> July, 2025, to inspect the documents.
- 3.66 However, he was not allowed to inspect the documents as the Livestock Services Cooperative Society took the position that his lawyers should not have been present for the inspection. Thus, he instructed his lawyers to write the letter which was exhibited as 'WJF2' on 10<sup>th</sup> July, 2025.
- 3.67 It was reiterated that William John Franklin wished to inspect documents, other than those specified in **Section 21 of the Cooperatives Societies Act**.
- 3.68 He denied that the injunction was couched in very wide terms and was vague, as the term 'Society's records', included those that he had requested to inspect.
- 3.69 Further averment was made, that he had been advised by his advocates, that **Section 21 of the Cooperative Societies Act** imposes a minimum obligation on a Society to permit inspection of the documents that are listed, and it

does not prohibit a member from requesting to access additional documents or limit the Court's power to order such inspection.

- 3.70 William John Franklin also deposed that he did not waive his right to inspect the documents, but rather that he did not consider a physical inspection necessary as the Livestock Services Cooperative Society indicated that it would only allow him to inspect the documents which had been exhibited to the application to discharge the order of injunction.
- 3.71 In the List of Authorities and Skeleton Arguments in opposition, it was argued that there was no need to clarify the term 'Society's records' as the Livestock Services Cooperative Society was aware of the meaning.
- 3.72 It was contended that the application was aimed at undermining the hearing of the interpartes order of injunction.
- 3.73 Reliance was placed on the case of ***Attorney General and others v Ambex Clothing Manufacture Ltd*** <sup>(8)</sup> as having discussed the circumstances under which a Court could vary, modify or extend its orders.
- 3.74 It was stated that the decision in the case of ***Thynne v Thynne*** <sup>(2)</sup> was adopted in doing so.
- 3.75 Other cases that were relied on, were ***Basf South Africa (Proprietary) Ltd v Agrifocus Limited*** <sup>(9)</sup> and ***Times Newspapers Zambia Limited & another v Koukoudis & another*** <sup>(7)</sup>.

- 3.76 The argument was that those cases highlighted that a Court could vary an order that was ambiguous or where the intention of the Court had not been expressed fully or clearly. Further, that clarification is not a review or appeal of a Judgment or Ruling, but a mechanism by which a Court ensures that a Judgment accurately reflects the intention of the Court.
- 3.77 It was further argued that ambiguity is the overriding principle in granting clarity to an order. Reiteration was made, that the meaning of Society's records was clear as seen from exhibit 'RL1' to the affidavit which was filed in support of the application to discharge the order of injunction, and it need no further clarification, as the records that were sought to be inspected were clear.
- 3.78 Further argument was made, that **Section 21 of the Cooperative Societies Act** sets out certain records that a cooperative society must as a minimum obligation, make available to its' members for inspection. It was repeated that there is nothing in the Section, that prohibits a member from requesting for or the Court, ordering access to other records of the society.
- 3.79 Thus, William John Franklin's request for additional AGM records was not ultra vires the Act, and that the Court in granting the Order of injunction was well within its' authority to ensure fairness and transparency by allowing inspection of the records.

3.80 The argument was also that the arguments on William John Franklin's entitlement to the documents were arguments for the interpartes hearing of the injunction application where the Court could determine whether it could vary, confirm or discharge the order of injunction.

**DECISION**

3.81 I have considered the applications and the response. As to whether at this stage, I should discharge the Order of injunction based on the arguments as presented by the Livestock Services Cooperative Society or clarify the Order of injunction, my view is that those arguments are actually matters in opposition to the granting of the application.

**4. CONCLUSION**

4.1 As such, and in order that the application is determined fully on its' merits without prejudicing any party, I will consider the issues raised on hearing the application inter partes.

4.2 The matter shall come up for hearing of the application inter partes on 6<sup>th</sup> October, 2025 at 14:30 hours, as I will be attending to the criminal session for Mansa which starts on 1<sup>st</sup> September, 2025.

**DATED AT LUSAKA THE 29<sup>th</sup> DAY OF AUGUST, 2025**

*S. Kaunda*  
**S. KAUNDA NEWA**  
**HIGH COURT JUDGE**

